International Molders and Allied Workers Union, Local No. 164 *and* Pacific Steel Casting Company. Case 32–CB–777

7 June 1984

DECISION AND ORDER

BY CHAIRMAN DOTSON AND MEMBERS ZIMMERMAN AND HUNTER

On 8 March 1983 Administrative Law Judge Leonard N. Cohen issued the attached decision. The Respondent filed exceptions and a supporting brief, and the General Counsel and the Charging Party filed answering briefs.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings, and conclusions and to adopt the recommended Order.

ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge and orders that the Respondent, International Molders and Allied Workers Union, Local No. 164, Oakland, California, its officers, agents, and representatives, shall take the action set forth in the Order.

DECISION

STATEMENT OF THE CASE

LEONARD N. COHEN, Administrative Law Judge. On December 10, 1981,[1] the initial trial in the instant case was heard before me in Oakland, California, pursuant to a complaint and notice of hearing issued on July 17, and a second amended complaint issued on November 20. The amended complaint, which was further amended at the hearing, was based on a charge filed on June 16 by Pacific Steel Casting Company (Pacific Steel) and alleged, inter alia, that International Molders and Allied Workers Union, Local No. 164 (Respondent or simply the Union) in violation of Section 8(b)(1)(A) took reprisals, including the making of threats and the imposition of fines, against certain of its members who refused to engage in an unprotected strike against Pacific Steel. Prior to the close of the December 10 trial, I suggested to the parties that since the entire record consisted of documentary evidence and stipulations of fact they should consider, as a method of avoiding unnecesary costs and delay, submitting the matter directly to the Board for decision. Thereafter, on February 6, 1981, the parties filed under Section 102.50 of the Board's Rules and Regulations a motion to transfer the proceedings to the Board for decision. On November 23, 1981, the Board issued an Order denying the motion on the grounds that the stipulation of fact was insufficient and remanded the proceeding to the Regional Director for Region 32 for appropriate action. On February 4, 1982, the parties filed a motion with the Board requesting that it clarify its previous Order of November 23, 1981, by informing them what additional facts on what particular issue would be needed to perfect a stipulated record acceptable to the Board. The parties further requested that should the Board decline to clarify its position, it should, nonetheless, amend its previous Order by remanding the proceedings back to me. On May 24, 1982, the Board issued an amended Order in which it stated that it did not consider it appropriate to clarify its original Order rejecting the parties stipulation of the fact. The Board did, however, amend its earlier Order by now remanding the matter to me. On June 30, 1982, I issued an Order reconvening the hearing for the purpose of taking evidence on certain subparagraphs of the amended complaint which, in my judgment, may have been the area in which the Board deemed the original stipulation of fact as insufficient. In any event, the record was reopened and a second day of hearing was conducted in San Francisco, California, on August 12, 1982.

All parties were given full opportunity to participate, to introduce relevant evidence, to examine and cross-examine witnesses, to argue orally, and to file briefs. Briefs which were filed by all parties have been carefully considered.

On the entire record of the case and from my observation of the witnesses and their demeanor, I make the following

FINDINGS OF FACT

I. THE BUSINESS OF PACIFIC STEEL

Pacific Steel is a California corporation with its office and principal place of business in Berkeley, California, where it is engaged in the operation of a steel casting foundry. During the past 12 months, Pacific Steel, in the course and conduct of its business operations, sold and shipped goods and services valued in excess of $50,000 directly to customers located outside the State of California. Accordingly, I find and conclude that at all times material herein Pacific Steel is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

II. THE LABOR ORGANIZATION

Respondent and Pacific Steel admit, and I find and conclude, that Respondent is and has been at all times material herein a labor organization within the meaning of Section 2(5) of the Act.

III. THE ALLEGED UNFAIR LABOR PRACTICES

A. *Facts*

The facts are not in dispute. Respondent and Pacific Steel were parties to a collective-bargaining agreement effective April 7, 1979, to March 14, 1982, covering Pa-

[1] Unless otherwise stated, all dates are in 1980.

cific Steel's approximately 270 production and maintenance employees. This collective-bargaining agreement sets forth detailed provisions regarding grievance-arbitration procedures, a no-strike clause, and union-security clauses.

Section XIV, step 3, states:

> (b) If no decision is reached by the parties in paragraph (a) above during the time allowed the aggrieved party may appeal the grievance to an arbitrator within five (5) working days.
>
> The arbitrator may be selected by agreement by the parties or if the parties cannot agree on an arbitrator then one shall be selected by alternatively striking names of five (5) arbitrators from lists furnished from the Federal Mediation and Conciliation Service. *The decision of the arbitrator shall be final and binding upon the parties to the arbitration.* Provided however, the arbitrator's decision shall be within the scope and terms of the agreement and shall not add to, subtract from, alter, or amend the scope and the terms of this agreement. The fees of the arbitrator and court reporter shall be shared equally by the adverse parties to the arbitration. [Emphasis added.]

Section XX dealing with strikes and lockouts states in its entirety:

> During the life of this agreement there shall be no lock-outs on the part of the employer or strikes on the part of the Union.
>
> It shall not be deemed a violation of this Section if employees do not report for work on account of a picket line established by another union which has a collective-bargaining agreement with the employer covering employees who are employed in the same premises provided such picket line has been instituted in conformity with the laws of said union and furthermore has been sanctioned by the international union and the Bay Cities Metals Trade Council and furthermore does not contravene the Labor Management Relations Act of 1947 as amended.

Section VI (c), (d), and (e) dealing with recognition and hiring states:

> (c) All members of the Union covered by this Agreement on its effective date, or subsequently hired, shall remain members in good standing of the Union as a condition of continued employment.
>
> (d) All other employees covered by this Agreement on its effective date, or subsequently hired, shall, if accepted by the Union, as a condition of employment, become members of the Union on the thirty-first (31st) calendar day following the beginning of their employment or the effective date of this Agreement, whichever is the later, and remain members of the Union in good standing as a condition of continued employment.
>
> (e) In the application of paragraphs (c) and (d) above, when the Employer is notified by the Union in writing that an employee is delinquent in payment of Union dues, or has failed within the time prescribed by the Union to make proper application and pay the required initiation fee, the Employer shall immediately terminate such employee. Such employee shall not be reemployed by the Employer until notified by the Union that the employee is a member in good standing in the Union, or such employee presents work clearance from Union to Employer.

On October 10, 1979, James Young, a production employee, filed a grievance alleging that he was discharged in violation of the collective-bargaining agreement. This grievance was not resolved in the adjustment procedure and on April 23, 1980, the matter was heard before Arbitrator Harvey Letter. On June 3, Arbitrator Letter issued a written decision in which he found and concluded that, since Young was absent from work due to illness, his subsequent discharge for failing to report to work violated the terms of the collective-bargaining agreement. Finally, Arbitrator Letter ordered that Young be reinstated with backpay.

During the week of June 9, Pacific Steel's attorney notified Respondent and its attorney that it had information that Young had committed perjury during the arbitration hearing and that it was, therefore, going to file a petition to vacate the arbitrator's award with the California Superior Court. Pacific Steel further notified Respondent that it would not reinstate Young pending this appeal. Shortly after being informed of Pacific Steel's intentions, Respondent Union in turn informed Pacific Steel that it was going to strike over Pacific Steel's refusal to immediately comply with the arbitration decision by reinstating Young pending any decision of the Superior Court.

By letter dated June 16, counsel for Pacific Steel filed the initial charge relating to this threatened work stoppage.

On the morning of June 16, Respondent's business representative Ignacio DeLaFuente came to Pacific Steel's plant and held an impromptu meeting with those employees present. DeLaFuente informed the employees that although an arbitrator had issued a decision in the Young case and had ordered that Young be reinstated, the Company, in violation of the collective-bargaining agreement, was refusing to abide by the arbitrator's decision. DeLaFuente stated that he could see no other course of action for the Union to take but to pull the work force off the job. DeLaFuente then stated that he was going to call for a strike and that anyone who refused to go along with a strike vote would be considered as engaging in union breaking. DeLaFuente added that anyone who did not honor the strike would be fined and their employment could be terminated. He then stated that he would personally see to it that anyone who did not strike would not only no longer work for Pacific Steel, but would not work for any other foundry. At this point, without any discussion being permitted, the members who were present that morning voted to go out on strike. Pursuant to this vote, the Union struck during the morning June 16. Of the approximately 270 production and maintenance employees, all but 27 honored the

strike. At midday on June 17, Pacific Steel announced that it was temporarily suspending operations and indefinitely closed the plant.

At this point the dispute moved nearly simultaneously into two other forums. On June 17, Pacific Steel filed with the United States District Court a petition for injunctive relief under *Boys Markets v. Retail Clerks Local 770*, 398 U.S. 235 (1970). District Court Judge Schnacke denied the request for a temporary restraining order and set the complaint for injunction, as well as Respondent's cross-complaint seeking an injunction compelling Pacific Steel to comply with the arbitration award pending any action by a court to vacate that award, for a hearing on June 27.

On June 18, Pacific Steel filed a petition to vacate the arbitrator's award with the Superior Court for the State of California. This matter likewise was set for argument on June 27. On the afternoon of June 27, before Judge Schnacke had an opportunity to rule on the matters pending before his court, Superior Court Judge Dearman informed the parties that he intended to sign an order vacating the arbitration award. Later that same day, Respondent's counsel informed Judge Schnacke that in view of Judge Dearman's actions, Respondent had no basis for opposing the issuance of the sought for injunction. Accordingly, Judge Schnacke, without objection, on June 27, issued an bench order granting the *Boys Markets* injunction. Pursuant to this order, the strike ended and Pacific Steel resumed operations.

In the meantime on June 19, Respondent filed an unfair labor charge in Case 32-CA-2823 alleging that Pacific Steel had violated Section 8(a)(5) by failing to abide by the collective-bargaining agreement's provisions regarding compliance with the final and binding nature of the arbitrator's decision. This charge was still pending during the courts' actions during the latter days of June.

Against this background, Respondent's business representative DeLaFuente, on July 3, sent letters to the 27 employee-members who had failed to participate in the strike. The letters informed each of the individuals that Respondent had preferred internal charges against them for their failure to honor the strike and notified them that the date of July 14 had been scheduled for their trial.

On July 14, the 27 charged members appeared before Respondent's trial committee to respond to the charges. No disposition of any of the charges was made during this meeting.

By letter dated July 21, the Regional Director for Region 32 dismissed the 8(a)(5) charges filed by Respondent in Case 32-CA-2823.[2] In so doing, Regional Director Scott stated:

> The investigation disclosed that the employer refused to comply with an arbitrator's award requiring the reinstatement of employee James Young on June 16, 1980, because it believed the award was obtained on the basis of fraudulent testimony. The investigation further disclosed that the employer petitioned the California Superior Court to vacate the award and that the Court did vacate the award after a hearing on June 27, 1980. There is no evidence that the Employer repudiated its collective-bargaining agreement with Local 164 or the contractual grievance procedure. In the absence of any evidence of repudiation of the collective-bargaining agreement the employer's refusal to comply with the arbitrator's award does not give rise to a violation of Section 8(a)(5). *Malrite of Wisconsin*, 198 NLRB 24. I am therefore refusing to issue a complaint in this matter.[3]

On August 7, a hearing was held before Judge Dearman with regard to his previous order vacating the arbitration award. During this hearing, he granted Respondent's motion to reconsider and heard argument of all counsel. On August 8, Judge Dearman issued an order vacating his previous order and granting Respondent's request for confirmation of the arbitration award. Although this order was signed on August 8, it was not served on any of the parties until November 12. Immediately upon receipt of this order, Pacific Steel reinstated Young to his former position.

On October 9, DeLaFuente sent letters to the 27 charged members informing them that Respondent's membership had accepted the trial committee's recommendations and had imposed $300 fines against each of them for their failure to participate in the strike. The letters stated that the fines must be paid on or before November 14, or "action will be taken towards suspension, termination of your employment, or legal action."

On November 18, DeLaFuente sent another letter to the 27 members indicating that to date, the Union had not received payment of their fines. The letter further notified each that he or she must appear before a trial board in early December to defend his or her failure to pay their fines.

On December 8, the 27 members appeared before the trial board as requested. Sidney Ennis, one of those charged, acted as the spokesman for the group. He informed DeLaFuente and the other officials that the 27 considered the fines illegal and they would not pay the fines until their legality had been established. DeLaFuente responded that they were not there to discuss the legality or illegality of the fines, that the only matter under consideration was the members' failure to pay their fines. DeLaFuente again repeated that if the members refused to pay their fines they were subjecting themselves to suspension from union membership and termination from employment following such suspension. When one of the other charged members, Frank Friana, asked how the Union could get them terminated from Pacific Steel, DeLaFuente answered by stating that there was a clause between Respondent and Pacific Steel to the effect that any member not in "good standing" with

[2] As noted earlier, on July 17, the Regional Director issued the initial complaint in this matter charging that Respondent Union, in violation of Section 8(b)(1)(A) of the Act, threatened employees with both loss of employment and fines because they refused to participate in an unlawful strike.

[3] The dismissal was appealed to the General Counsel and on August 11, the appeal was denied for substantially the reasons set forth in the Regional Director's dismissal letter.

the Local was subject to termination and that he would have them terminated on the basis of that clause. During the ensuing discussion DeLaFuente indicated to the 27 that he would recommend to the trial committee that they each be suspended from membership and subsequently terminated from employment. The following month each of the 27 was notified that he had been suspended from the union membership for failing to pay the aforementioned fine.

On January 28, 1981, Pacific Steel filed a new charge in Case 32–CB–923 against Respondent alleging, inter alia, that Respondent was attempting to force Pacific Steel to discriminate against the nonstriking employees in violation of Section 8(b)(2) of the Act. On January 29, the Regional Director for Region 32 issued a new complaint in Case 32–CB–923 in which he alleged that Respondent, about January 15, 1981, informed members that unless they paid their fines the Union would engage in a strike, suspended said nonstriking members from union membership because of their failure to pay the fines, and demanded that Pacific Steel terminate those employees under the union-security clause of the collective-bargaining agreement.

On February 2, Regional Director Scott filed in the United States District Court a petition for injunctive relief against Respondent pursuant to Section 10(j) of the Act. That same day, United States District Court Judge Stanley Weigel signed a temporary restraining Order in which Respondent was ordered to cease and desist from threatening any strike action against Pacific Steel and instituting any internal disciplinary action against any members of Respondent who refused to engage in strike against Pacific Steel.

On February 5, a stipulation and order was signed by counsel for Respondent and counsel for the Regional Director and subsequently approved by Judge Weigel in which Respondent stipulated to an order enjoining it from, inter alia, threatening any strike action against Pacific Steel and seeking or threatening the discharge of any employee of Pacific Steel for failing or refusing to pay any fines pending the final disposition of the matters in Cases 32–CB–777 and 32–CB–923.

On April 22, 1981, Pacific Steel filed yet another charge, this one in Case 32–CB–983 alleging that Respondent had violated Section 8(b)(1)(A) of the Act by seeking to enforce its fines against the 27 nonstriking employees by filing deficient law suits against them. On April 28, the Regional Director for Region 32 issued a complaint in that case. Finally, about September 25, 1981, the parties, with the approval of the Regional Director, settled informally the charges in Cases 32–CB–923 and 32–CB–983 contingent, in part, on a final ruling in the instant matter.

B. *Conclusions*

Despite the rather convoluted and winding path taken procedurally to reach this decisional stage, as well as the somewhat complex factual setting to this dispute, including reference to collateral litigation, the issues presented here are relatively straightforward and well settled.

On June 3, the arbitrator issued his decision in which he ordered Pacific Steel to reinstate grievant Young. Shortly thereafter, Pacific Steel informed Respondent that it had evidence that Young had committed perjury at the arbitration hearing and that it would not, therefore, comply with the arbitrator's decision unless and until a court enforced that award. Respondent, rather than waiting for the matter to be resolved in the courts, struck solely to force Pacific Steel to reinstate Young pending any such appeal by the Employer to the courts.

As recognized by all parties, the Board does not view a single instance of noncompliance by an employer with an arbitration award, in and of itself, as a repudiation of the employer's statutory bargaining obligation. *Malrite of Wisconsin*, 198 NLRB 241 (1972). A breach of contract is not ipso facto an unfair labor practice. *Papercraft Corp.*, 212 NLRB 240 at fn. 3 (1974).

Respondent concedes that by agreeing to the no-strike clause of the collective-bargaining agreement it waived its right to take strike action against Pacific Steel prior to the final resolution of the Young grievance by the arbitrator. However, it contends that under the legal standard of "coterminous application," most recently applied in *Pacemaker Yacht Co.*, 253 NLRB 828 (1980), the Board is precluded from finding that the no-strike provision extended to strikes protesting matters not resolvable by the grievance-arbitration procedures.

In this regard, Respondent argues that there is no evidence that the parties in their bargaining history ever discussed the question of what would happen if Pacific Steel, despite the "final and binding" language of section XIV of the collective-bargaining agreement, failed to comply with the arbitrator's award, and that absent such evidence there can be no clear and unmistakable waiver of its rights to take economic action at that time. Respondent argues that since neither party is precluded by contract in seeking court action with regard to an arbitrator's decision, "concomitantly, the Union is not precluded from taking strike action to enforce an arbitrator's award where the employer refused to comply."

Respondent's argument is based on an invalid assumption, and, therefore, its reliance on the "coterminous application" theory to avoid its liability is misplaced. Neither the Board nor the courts consider the arbitration process as concluded with the mere issuance of the arbitrator's decision. In *Malrite of Wisconsin*, supra, the Board, in concluding that the employer's noncompliance with the arbitration award was not a matter for its concern, stated:

> If the Board's deference to arbitration is to be meaningful, it must encompass the entire arbitration process, including the enforcement of arbitral awards. It appears that the desired objective of encouraging the voluntary settlement of labor disputes through the arbitration process will best be served by requiring that parties to a dispute, after electing to resort to arbitration, proceed to the usual conclusion of that process—judicial enforcement—rather than permitting them to invoke the intervention of the Board.

Similarly, the courts have also concluded that judicial review, not the issuance of the arbitrator's decision, con-

stitutes the final set in the arbitration process. *Anheuser-Busch, Inc. v. Teamsters Local 133*, 477 F.Supp. 742, 747 (E.D.Mo. 1979); *Sea-land Service v. Longshoremen*, 625 F.2d 38, 41–42 (5th Cir. 1980). In the latter case, the circuit court specifically rejected the union's claim that its contractual obligation to refrain from striking ceased immediately on the issuance of the arbitrator's decision, and that, therefore, the *Boys Markets* injunction,[4] previously issued by the district court, automatically expired. In so doing, the court held:

> We hold that, absent express agreement to the contrary, cf. *New York v. Local 244, Hotel, Nursing Home & Allied Health Services Union*, 410 F.Supp. 225, 230 (S.D.N.Y. 1976) (arbiter's decision by contract had "effect of a judgment," entitling prevailing party "to entry of judgment in a court of competent jurisdiction"), a *Boys Markets* injunction may continue in force pending judicial enforcement of the subsidiary arbitral award. Since the parties' contract here does not expressly preclude normal judicial "review," we reject ILA's contention that the arbiters' decision, by itself, deprived the district court of subject matter jurisdiction to continue its anti-strike injunction.

Here, the no-strike clause, like that in *Sea-land Service*, supra, contains no express agreement extending to the arbitrator's decision the effect of a judgment entitling the prevailing party to entry of a judgment in a court of competent jurisdiction. Further, no extrinsic evidence was offered to show that the parties intended to preclude the no-strike clause's application during the period in which judicial review was sought. In these circumstances, Respondent must live up to its promise not to strike during the life of the collective-bargaining agreement. Accordingly, Respondent's June 16 strike action was in violation of the collective-bargaining agreement and was, therefore, unprotected.[5]

In view of the finding that the strike was unprotected, I need not reach the Charging Party's alternative argument that Respondent's failure to give notice to either the Federal Mediation and Conciliation Service, or the California State Conciliation Service, as required by Section 8(d) of the Act, rendered the strike unlawful.[6]

Having resolved against Respondent the threshold question regarding status of the underlying strike, I now turn to the various subparagraphs of the complaint in which Respondent is alleged to have violated Section 8(b)(1)(A) of the Act. These allegations basically fall into two categories: (1) threatening loss of employment with Pacific Steel and "blackballing" within the industry to those members who would not participate in the unprotected strike or pay fines, and (2) threatening members with fines and, in fact, bringing intraunion charges against those members, conducting of trials on said charges, and the levying of fines against those members because of their failure to engage in the unprotected strike.

The illegality of the threats in category 1, above, are clear and are in no way dependent upon the conclusion that the underlying strike was unprotected. Respondent's counsel does not, on brief, contest that such threats as those made orally and in writing to the 27 nonstriking members by business agent DeLaFuente interfered with those members' employment opportunities and, as such, were violative of Section 8(b)(1)(A) of the Act. The Act prohibits a union from causing or attempting to cause an employer to discharge an employee for his failure to pay assessments or fines other than periodic dues or normal initiation fees. It follows that these threats, including specifically the threat that loss of membership and, therefore, the loss of "good standing" with the Union which would in turn render the employee ineligible for work, were coercive and each such threat constituted an independent violation of Section 8(b)(1)(A).[7]

The category 2 conduct involves Respondent's internal discipline of its members and its lawfulness, therefore, turns on a consideration of the legitimacy of Respondent's interests. As the Board stated in *Operating Engineers Local 39 (San Jose Hospital)*, 240 NLRB 1122 at 1123 (1979):

> Thus, the principle that a union may impose internal discipline on its members without running afoul of Section 8(b)(1)(A) is not without exception. In applying this section of the Act, the Board and the courts, both prior to and after *Scofield*, have recognized that the proviso of Section 8(b)(1)(A) affords no immunity to a union when it imposes disciplinary action, even though enforced internally, that "invades or frustrates an overriding policy of the labor laws." In this regard, the internal enforcement of a union rule has been found to violate Section 8(b)(1)(A) where discipline is imposed against union members for filing or encouraging others to file charges with the Board, or for refusing to cross an unlawful picket line, or for the purpose of coercing members to participate in conduct violative of the Act. *In addition, the use of discipline or threat of discipline to compel union members into acting in contravention of a collectively bargained-for agreement has been recognized as falling beyond the scope of permissible internal union discipline* under the proviso to Section 8(b)(1)(A). [Emphasis added.]

Here, as we have seen, Respondent's purpose in pursuing its discipline against the 27 members was clear and straightforward—to retaliate against those members who refused to join Respondent in its unprotected strike in

[4] *Boys Markets v. Retail Clerks*, supra.

[5] The main case relied on by Respondent, *Pacemaker Yacht Co.*, supra, is clearly distinguishable on its facts. There, the employees, despite a broad no-strike agreement, struck to protest the failure of the health and welfare fund to pay the benefits required by the insurance program. In declining to find that the no-strike provision constituted a waiver of the employees' right to strike over the fund's inaction, the Board noted that there was no indication that the parties intended that article to cover a situation in which the employees sought to put pressure on the employer and the union to remedy a problem created by a third party. Here, no unforeseen third party exists.

[6] But see *United Marine Division Local 333 (General Marine Transportation)*, 228 NLRB 1107, 1109 (1977), for a general discussion of this issue.

[7] *Carpenters Local 2605 (DeRose Industries)*, 256 NLRB 584, 586 (1981).

violation of the collective-bargaining agreement. This conduct impairs national labor policies and is, therefore, not protected by the proviso to Section 8(b)(1)(A) of the Act. Accordingly, I conclude that Respondent has violated Section 8(b)(1)(A) as alleged.

IV. THE REMEDY

Having found that the Union has engaged in certain unfair labor practices prohibited by Section 8(b)(1)(A) of the Act, I recommend that it be ordered to cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act.

CONCLUSIONS OF LAW

1. Respondent Union is a labor organization within the meaning of Section 2(5) of the Act.
2. Pacific Steel is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.
3. Respondent restrained and coerced employees in the exercise of the rights guaranteed them in Section 7 of the Act in violation of Section 8(b)(1)(A) of the Act by:

(a) Bringing intraunion charges against, and subsequently fining, those employees of Pacific Steel listed in Appendix B hereto, because they refused to strike in violation of the collective-bargaining agreement.

(b) Threatening those employees of Pacific Steel listed in Appendix B hereto with intraunion charges, fines, suspensions of membership, loss of employment, and blackballing because they refused to strike in violation of the collective-bargaining agreement and/or pay the unlawfully imposed fines.

4. The aforesaid unfair labor practices affect commerce within the meaning of Section 2(6) and (7) of the Act.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended[8]

ORDER

The Respondent, International Molders and Allied Workers Union, Local No. 164, Oakland, California, its officers, agents, and representatives, shall

1. Cease and desist from

(a) Bringing intraunion charges against and subsequently fining those employees of Pacific Steel listed in Appendix B hereto because they refused to strike in violation of the collective-bargaining agreement.

(b) Threatening those employees of Pacific Steel listed in Appendix B hereto with intraunion charges, fines, suspensions of membership, loss of employment, and blackballing because they refused to strike in violation of the collective-bargaining agreement and/or pay the unlawfully imposed fines.

(c) In any like or related manner restraining or coercing employees in the exercise of the rights guaranteed them in Section 7 of the Act.

2. Take the following affirmative action designed to effectuate the policies of the Act.

(a) Rescind the fines imposed against those employees of Pacific Steel listed in Appendix B hereto and expunge from its records all reference to said fines.

(b) Post at its business office and meeting halls copies of the attached notice marked "Appendix A."[9] Copies of the notice, on forms provided by the Regional Director for Region 32, after being duly signed by its authorized representative, shall be posted by it immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to members are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that said notices are not altered, defaced, or covered by any other materials.

(c) Furnish the Regional Director with signed copies of the aforesaid notices for posting by Pacific Steel Casting Company, if that Company is willing to post them.

(d) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

[8] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

[9] If this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX A

NOTICE TO MEMBERS
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
AN AGENCY OF THE UNITED STATES GOVERNMENT

WE WILL NOT bring intraunion charges against and fine any employees of Pacific Steel Casting Company because they refused to strike in violation of the collective-bargaining agreement.

WE WILL NOT threaten any employees of Pacific Steel Casting Company with intraunion charges, fines, suspensions of membership, loss of employment, and blackballing because they refused to strike in violation of the collective-bargaining agreement or pay unlawfully imposed fines.

WE WILL NOT in any like or related manner restrain or coerce employees of Pacific Steel Casting Company in the exercise of the rights guaranteed them by Section 7 of the Act.

WE WILL rescind all fines imposed against any employee of Pacific Steel Casting Company and WE WILL expunge from our records all references to those fines.

INTERNATIONAL MOLDERS AND ALLIED WORKERS UNION, LOCAL NO. 164

APPENDIX B

1. Alex Staritzin
2. Michael Boyd
3. Jim Craig
14. John Hatton
15. Jose Sausa
16. Jose Fereira

4. Tony Silveira
5. Nate Davis
6. Sid Ennis
7. Willie Carpenter
8. Doug Cossman
9. Glen Cossman
17. Angelo Martinez
18. John Hong
19. Frank Fahrina
20. Rudy Serrato
21. Al Teixeira
22. Tony Adado
10. Sal Lemus
11. Manuel Lema
12. David Von Norman
13. Armindo Fernandes
23. Tony Johnson
24. Manuel Sousa
25. Manuel Fereira
26. William Abreu
27. Keith Barnes